

AMENDED IN ASSEMBLY APRIL 25, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1645

Introduced by Assembly Member Matthews

February 22, 2005

An act to amend Section ~~4691~~ 4691.6 of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1645, as amended, Matthews. Regional center services.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to allocate funds to private nonprofit regional centers for the provision of community services and support for persons with developmental disabilities and their families.

~~This bill would make a technical, nonsubstantive changes.~~

Existing law prohibits, during the 2004-05 fiscal year, the department from establishing any permanent payment rate for a community-based day program or in-home respite service agency provider that has a temporary payment rate in effect on June 30, 2004, if the permanent payment rate would be greater than the temporary payment rate in effect on or after June 30, 2004, unless the regional center demonstrates to the department that the permanent payment rate is necessary to protect the consumers' health or safety.

This bill would delete that prohibition and would, commencing July 1, 2005, require the department to establish permanent payment rates for community-based day programs and in-home respite agency providers who have been reimbursed under a temporary payment rate for 18 months or more, and would require the rate to go into effect commencing July 1, 2005.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 4691 of the Welfare and Institutions~~
2 ~~Code is amended to read:~~
3 ~~SECTION 1. Section 4691.6 of the Welfare and Institutions~~
4 ~~Code is amended to read:~~
5 ~~4691.6. (a) Notwithstanding any other provision of law or~~
6 ~~regulation, during the 2004-05 fiscal year, the department may~~
7 ~~not establish any permanent payment rate for a community-based~~
8 ~~day program or in-home respite service agency provider that has~~
9 ~~a temporary payment rate in effect on June 30, 2004, if the~~
10 ~~permanent payment rate would be greater than the temporary~~
11 ~~payment rate in effect on or after June 30, 2004, unless the~~
12 ~~regional center demonstrates to the department that the~~
13 ~~permanent payment rate is necessary to protect the consumers'~~
14 ~~health or safety. Commencing July 1, 2005, the department shall~~
15 ~~establish permanent payment rates for community-based day~~
16 ~~programs and in-home respite agency providers who have been~~
17 ~~reimbursed under a temporary payment rate for 18 months or~~
18 ~~more. The programs and providers shall have 60 days from the~~
19 ~~effective date of the act of the Statutes of 2005 that amended this~~
20 ~~section to submit the required cost data for any consecutive~~
21 ~~12-month period during which they received a temporary~~
22 ~~payment rate. The rate shall go into effect commencing July 1,~~
23 ~~2005. Community-based day programs and in-home respite~~
24 ~~services agency providers with less than 18 months of~~
25 ~~reimbursement shall be governed by temporary rate conversion~~
26 ~~provisions set forth in Title 17 of the California Code of~~
27 ~~Regulations. Notwithstanding any provision of law to the~~
28 ~~contrary, the regional center shall pay the community-based day~~
29 ~~program and in-home respite services agency provider the~~
30 ~~applicable rate established by the department.~~
31 (b) Notwithstanding any other provision of law or regulation,
32 during the 2004-05 fiscal year, neither the department nor any
33 regional center may approve any program design modification or
34 revendorization for a community-based day program or in-home
35 respite service agency provider that would result in an increase in

1 the rate to be paid to the vendor from the rate that is in effect on
2 or after June 30, 2004, unless the regional center demonstrates
3 that the program design modification or revendorization is
4 necessary to protect the consumers' health or safety and the
5 department has granted prior written authorization.

6 (c) Notwithstanding any other provision of law or regulation,
7 during the 2004-05 fiscal year, the department may not approve
8 an anticipated rate adjusted for a community-based day program
9 or in-home respite service agency provider that would result in
10 an increase in the rate to be paid to the vendor from the rate that
11 is in effect on or after June 30, 2004, unless the regional center
12 demonstrates that the anticipated rate adjustment is necessary to
13 protect the consumers' health or safety.

14 (d) Notwithstanding any other provision of law or regulation,
15 during the 2004-05 fiscal year, the department may not approve
16 any rate adjustment for a habilitation services program that
17 would result in an increase in the rate to be paid to the vendor
18 from the rate that is in effect on or after June 30, 2004, unless the
19 regional center demonstrates that the rate adjustment is necessary
20 to protect the consumers' health and safety and the department
21 has granted prior written authorization.

22 ~~4691. (a) The Legislature reaffirms its intent that~~
23 ~~community-based day programs be planned and provided as part~~
24 ~~of a continuum of services to enable persons with developmental~~
25 ~~disabilities to approximate the pattern of everyday living~~
26 ~~available to people of the same age without disabilities. The~~
27 ~~Legislature further intends that standards be developed to ensure~~
28 ~~high quality services, and that equitable ratesetting procedures~~
29 ~~based upon those standards be established, maintained, and~~
30 ~~revised, as necessary. The Legislature intends that ratesetting~~
31 ~~procedures be developed for all community-based day programs,~~
32 ~~which include adult development centers, activity centers, infant~~
33 ~~day programs, behavior management programs, social~~
34 ~~recreational programs, and independent living programs.~~

35 ~~(b) For the purpose of ensuring that regional centers may~~
36 ~~secure high quality services for persons with developmental~~
37 ~~disabilities, the State Department of Departmental Services shall~~
38 ~~adopt regulations establishing program standards and an~~
39 ~~equitable process for setting rates of state payment for~~

1 community-based day programs. These regulations shall include,
2 but shall not be limited to:

3 (1) ~~The standards and requirements related to the operation of~~
4 ~~the program including, but not limited to, staff qualifications,~~
5 ~~staff-to-client ratios, client entrance and exit criteria, program~~
6 ~~design, program evaluation, program and client records and~~
7 ~~documentation, client placement, and personnel requirements and~~
8 ~~functions.~~

9 (2) ~~The allowable cost components of the program including~~
10 ~~salary and wages, staff benefits, operating expenses, and~~
11 ~~management organization costs where two or more programs are~~
12 ~~operated by a separate and distinct corporation or entity.~~

13 (3) ~~The rate determination processes for establishing rates,~~
14 ~~based on the allowable costs of the allowable cost components.~~
15 ~~Different rate determination processes may be developed for~~
16 ~~establishing rates for new and existing programs, and for the~~
17 ~~initial and subsequent years of implementation of the regulations.~~
18 ~~The processes shall include, but are not limited to:~~

19 (A) ~~The procedure for identification and grouping of programs~~
20 ~~by type of day program and approved staff-to-client ratio.~~

21 (B) ~~The requirements for an identification of the program,~~
22 ~~cost, and other information, if any, which the program is required~~
23 ~~to submit to the department or the regional center, the~~
24 ~~consequences, if any, for failure to do so, and the timeframes and~~
25 ~~format for submission and review.~~

26 (C) ~~The ratesetting methodology.~~

27 (D) ~~A procedure for adjusting rates as a result of anticipated~~
28 ~~and unanticipated program changes and fiscal audits of the~~
29 ~~program and a procedure for appealing rates, including the~~
30 ~~timeframes for the program to request an adjustment or appeal,~~
31 ~~and for the department to respond.~~

32 (E) ~~A procedure for increasing established rates and the~~
33 ~~allowable range of rates due to cost-of-living adjustments.~~

34 (F) ~~A procedure for increasing established rates as a result of~~
35 ~~Budget Act appropriations made pursuant to the ratesetting~~
36 ~~methodology established pursuant to Section 4691.5 and~~
37 ~~subdivision (e).~~

38 The department shall develop these regulations in consultation
39 with representatives from organizations representing the
40 developmental services system as determined by the department.

~~The State Council on Developmental Disabilities, and other organizations representing regional centers, providers, and clients shall have an opportunity to review and comment upon the proposed regulations prior to their promulgation. The department shall promulgate these regulations for all community-based day programs by July 1, 1990.~~

~~(e) Upon the adoption of regulations pursuant to subdivision (b), and pursuant to Section 4691.5, and by September 1 of each year thereafter, the department shall establish rates pursuant to the regulations. Rate increases during fiscal years 1990-91 and 1991-92 shall be limited to those specified in subdivision (b). For fiscal year 1992-93 and all succeeding fiscal years, any increases proposed during those years in the rates of reimbursement established pursuant to the regulations, except for rate increases due to rate appeals and rate adjustments based on unanticipated program changes, shall be subject to the appropriation of sufficient funds in the Budget Act, for those purposes, to fully provide the proposed increase to all eligible programs for the entire fiscal year. If the funds appropriated in the Budget Act are not sufficient to fully provide for the proposed increase in the rates of reimbursement for all eligible programs for the entire fiscal year, the proposed increase shall be limited to the level of funds appropriated. The increases proposed in the rates of reimbursement shall be reduced equitably among all eligible providers in accordance with funds appropriated and the eligible programs shall be reimbursed at the reduced amount for the entire fiscal year.~~

~~(d) Using the reported costs of day programs reimbursed at a permanent rate and the standards and ratesetting processes adopted pursuant to subdivision (b) as a basis, the department shall report to the Legislature as follows:~~

~~(1) By April 15, 1993, and every odd year thereafter, the difference between permanent rates for existing programs and the rates of those programs based upon their allowable costs and client attendance, submitted pursuant to the regulations specified in subdivision (b). In reporting the difference, the department shall also identify the amount of the difference associated with programs whose rates are above the allowable range of rates, which is available for increasing the rates of programs whose rates are below the allowable range, to within the allowable~~

1 range, and any other pertinent cost or rate information which the
2 department deems necessary.

3 ~~(2) By April 15, 1994, and every even year thereafter, the level~~
4 ~~of funding, if any, which was not appropriated to reimburse~~
5 ~~providers at the proposed rates reported the prior fiscal year~~
6 ~~pursuant to paragraph (1), and any other pertinent cost or rate~~
7 ~~information which the department deems necessary.~~

8 ~~(3) The April 15, 1996, report pursuant to paragraph (2) shall~~
9 ~~be prepared jointly by the department and organizations~~
10 ~~representing community-based day program providers, as~~
11 ~~determined by the department. That report shall also include a~~
12 ~~review of the ratesetting process and recommendations, if any,~~
13 ~~for its modification.~~

14 ~~(e) Rates established by the department pursuant to~~
15 ~~subdivision (b) are exempt from Chapter 3.5 (commencing with~~
16 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the~~
17 ~~Government Code.~~

18 ~~(f) The department shall ensure that the regional centers~~
19 ~~monitor compliance with program standards.~~